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			2461	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)				
Office Action Occurrence		10/588,726	HUNT ET AL.				
	Office Action Summary	Examiner	Art Unit				
		ADNAN BAIG	2461				
Period f	The MAILING DATE of this communication app or Reply	ears on the cover sheet with the	correspondence ad	idress			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status							
1) 又	Responsive to communication(s) filed on 29 Ju	ıne 2011					
,		action is non-final.					
′	, —		set forth during th	e interview on			
٥/١	An election was made by the applicant in response to a restriction requirement set forth during the interview on; the restriction requirement and election have been incorporated into this action.						
4)							
•/	closed in accordance with the practice under E	·					
	·						
Disposi	tion of Claims						
5)🛛	Claim(s) <u>73-92</u> is/are pending in the application.						
	5a) Of the above claim(s) is/are withdrawn from consideration.						
6)	Claim(s) is/are allowed.						
7) 🖂	Claim(s) <u>73-92</u> is/are rejected.						
8)	Claim(s) is/are objected to.						
9)	Claim(s) are subject to restriction and/or election requirement.						
Application Papers							
10)	10) The specification is objected to by the Examiner.						
11)	11) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
12) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority under 35 U.S.C. § 119							
<ul> <li>13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> </ul>							
3. Copies of the certified copies of the priority documents have been received in this National Stage							
application from the International Bureau (PCT Rule 17.2(a)).							
* See the attached detailed Office action for a list of the certified copies not received.							
Attachment(s)							
1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413)							
2) 🔲 Noti	ce of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail [	oate				
B) Information Disclosure Statement(s) (PTO/SB/08)  Paper No(s)/Mail Date  5) Notice of Informal Patent Application  6) Other:							

## **DETAILED ACTION**

## Response to Arguments

1. Applicant's arguments with respect to claims 73-92 have been considered but are most in view of the new ground(s) of rejection.

## Claim Rejections - 35 USC § 103

- 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 3. Claims 73-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (USP 5,878,224) in view of Margulis et al. USP (6,243,449).

Regarding Claim 73, Smith discloses an adaptive overload control method for controlling the amount of traffic offered by a plurality of network access points (see Fig. 2, 206a-206b) to a network access controller (see Fig. 4) for processing, the plurality of network access points (see Fig. 2, 206a-206b) being arranged under control of said network access controller (see Fig. 4) to provide said traffic with access to a communication network, the method enabling said network access controller (see Fig. 4) to externally control the amount of traffic which it processes by regulating the rate of offered traffic, the method comprising:

a) at the network access controller (see Fig. 4, CPU 406) using at least one

programmed processor to: determines if an overload condition exists (see Fig. 4, 410 &

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**Col. 5 lines 4-10**) and if so,

(i) generating at least one global traffic constraint information (see Col. 5 lines 29-36) to

restrict the rate at which a network access point admits said traffic to the

communications network (see Col. 13 lines 6-36 e.g., the admission factor or the

adapted gap interval can be calculated by the source (e.g., access point) or the

server (e.g., controller). Furthermore the source (access point) calculates its new

gap interval (e.g., per-line gap interval) based on its input transaction rate λ (e.g.,

estimate of current rate per line). See Col. 4 lines 61-67 e.g., aggregate offered

traffic is determined by controller 500 for determining the reduction rate)

(ii) communicating said at least one global traffic constraint to one or more of said

plurality of network access points, (see Col. 5 lines 4-36)

(Referring to Col. 5 lines 4-29, Smith discloses the controller located in a network

server establishes a target incoming workload by computing the offered load of sources

(e.g., aggregate offered traffic rate from plurality of access points) from measurements of arriving messages.

- (b) and at each respective network access point receiving said at least one global traffic constraint (see Col. 5 lines 33-36), using at least one programmed processor to:
- (i) processing the received global traffic constraint (see Col. 5 lines 35-36, i.e., update (processing)) to determine a plurality of local gap interval constraint conditions for the respective network access point by: determining a local call gap interval ( $\Delta t$ ) to be imposed on traffic received by said respective network access point (see Col. 5 lines 4-37 e.g., reduce transaction rate based on traffic rate & Col. 13 lines 5-15 e.g., generate a local call gap interval ( $\Delta t$ ), Col. 2 lines 3-15)

Smith does not expressly disclose the plurality of local gap interval constraint conditions to include determining an initial local gap interval ( $\Delta t0$ ) which differs from the determined local gap interval ( $\Delta t$ ), wherein each initial local gap interval ( $\Delta t0$ ) is determined independently by each respective one of said plurality of network access points to be between zero and the local gap interval ( $\Delta t$ ), for said respective network access point. Impose said local initial gap interval ( $\Delta t0$ ) at each of said plurality of network access points directly responsive to receipt of a global gap condition and before further traffic is received at the respective network access point for admittance to said communications

network. However the limitations would be rendered obvious in view of the teachings of Marqulis et al. USP (6,243,449).

Referring to Fig. 1, Margulis illustrates a switch 16 is able to apply an initial gap interval which varies in a random manner (*see Fig. 2B, step 130*) between the plurality of switches 16 offering traffic to a network processor 26, (*see Col. 5 line 47 – Col. 6 lines 1-24*)

determining an initial local gap interval ( $\Delta t0$ ) which differs from the determined local gap interval ( $\Delta t$ ), (see Col. 6 lines 15-24 e.g., randomizing the first gap time as initial gap time (e.g.,  $\Delta t0$ ), & Col. 5 lines 50-65 e.g., subsequent gap time (e.g.,  $\Delta t$ ))

wherein each initial local gap interval ( $\Delta t0$ ) is determined independently by each respective one of said plurality of network access points to be between zero and the local gap interval ( $\Delta t$ ), for said respective network access point, (see Col. 6 lines 14-24 e.g., the switch applies random multiplier between 0 and 1 to the initial gap, subsequently the switch loads the actual gap time to the gap timer, thus initial local gap interval ( $\Delta t0$ ) is determined independently be each switch)

Impose said local initial gap interval ( $\Delta t0$ ) at each of said plurality of network access points directly responsive to receipt of a global gap condition (see Col. 5 lines 47-60 e.g., "NP immediately broadcasts a gap control message" (e.g., receipt of a global gap condition) "to all switches on the network". "After a network switch receives a call gap message for a TN from the NP, it loads the call gap specified in the message").

and before further traffic is received at the respective network access point for admittance to said communications network, (see Col. 5 lines 55-60, "after a network switch receives a call gap message for a TN from the NP, it loads the call gap specified in the message into a call gap timer created for the TN and blocks all calls it receives" (e.g., ( $\triangle t0$ ) is loaded into timer before further traffic is received) "which are destined to this TN" e.g., Thus, responsive to the gap control message from the NP, the standard initial call gap specified in the global constraint control message is automatically loaded into a call gap timer for the TN, and any further traffic destined for the respective TN is controlled during  $\triangle t0$ ).

(Referring to (Col. 6 lines 17-24), Margulis teaches by randomizing the first gap time in respect of a TN (terminating number) which is subject of gapping, network-wide call bursts at the end of each gap time are avoided (*i.e., avoid synchronized access attempts at the end of gapping period*). Furthermore the initial gap time is standard which is applied prior to receiving traffic for throttling

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the number of calls to the TN in order to avoid network congestion, see Col. 5

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lines 47-55)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the

invention for the global constraint condition sent to the network access points by the

controller of Smith to be implemented as the broadcast gap control message of Margulis

who discloses determining an initial local gap interval (Δt0) which differs from the

determined local gap interval ( $\Delta t$ ), wherein each initial local gap interval ( $\Delta t$ 0) is

determined independently by each respective one of said plurality of network access

points to be between zero and the local gap interval ( $\Delta t$ ), for said respective network

access point and Impose said local initial gap interval (\Delta t0) at each of said plurality of

network access points directly responsive to receipt of a global gap condition and before

further traffic is received at the respective network access point for admittance to said

communications network, because the teaching lies in Margulis that network-wide call

bursts can be avoided at the end of each gap time by randomizing the initial gap

interval.

Regarding Claim 74, the combination of Smith in view of Margulis disclose a method as

claimed in claim 73, wherein said traffic comprises communications call related traffic,

(Smith, See Col. 4 lines 33-40)

Regarding Claim 75, the combination of Smith in view of Margulis disclose a method as claimed in claim 73, wherein the network access controller analyzes the rate at which traffic is offered to the network access controller to determine said at least one global

traffic constraint, (Smith. See Col. 4 lines 15-24 & Col. 5 lines 9-11)

Regarding Claim 76, the combination of Smith in view of Margulis disclose a method as claimed in claim 73, wherein the network access controller determines if an overload condition exists at the network access controller from the aggregate rate at which the traffic offered by all of said plurality of network access points to said network access controller, (Smith, see Col. 4 lines 15-24) and wherein said at least one global constraint is derived from the aggregate rate, (Smith, see Fig. 1, Col. 13 lines 5-9 & Col. 2 lines 7-15)

Regarding Claim 77, the combination of Smith in view of Margulis disclose a method as claimed in claim 73, wherein the network access controller by analyzes the rate at which traffic is rejected by the controller to determine said at least one global traffic constraint, (Smith, see Col. 4 lines 15-24 & Col. 11 lines 15-30)

Regarding Claim 78, the combination of Smith in view of Margulis disclose a method as claimed in claim 77, wherein the network access controller (**Smith, see Fig. 4**)

determines if an overload condition exists at the network access controller (Smith, see

Fig. 4) from a reject rate comprising a rate at which the traffic offered by all of said

plurality of network access points to said network access controller is rejected, (Smith,

see Col. 11 lines 15-30) and wherein said at least one global constraint is derived from

the reject rate, (Margulis, see Col. 5 lines 47-51).

Regarding Claim 79, the combination of Smith in view of Margulis disclose a method as

claimed in claim 74, wherein said network access controller determines said at least

one global traffic constraint by analyzing the rate at which off-hook messages are

rejected by the access controller, (Smith, see Col. 7 lines 55-60)

Regarding Claim 80, the combination of Smith in view of Margulis disclose a method as

claimed in claim 73, wherein the aggregate distribution of intervals (Smith, see Fig. 1)

imposed by all of said network access points under the control of the network access

controller is randomized at the onset of the local gap interval ( $\Delta t$ ) constraint imposed by

each said network access point, (Margulis, see Col. 6 lines 15-25)

Regarding Claim 81, the combination of Smith in view of Margulis disclose a method as

claimed in claim 80, wherein said randomization is imposed individually by each

network access point generating an initial local gap interval (Δt0), (Margulis, see Col. 6

lines 14-24 e.g., the switch applies random multiplier between 0 and 1 to the initial

gap, subsequently the switch loads the actual gap time to the gap timer, thus

initial local gap interval ( $\Delta t0$ ) is determined independently be each switch)

whose duration is determined by a random process. (Margulis, see Col. 6 lines 15-25

e.g., random multiplier applied to (∆t0)).

Regarding Claim 82, the combination of Smith in view of Margulis disclose a method as

claimed in claim 80, wherein said randomization is imposed individually by each

network access point implementing said local gap interval (\Delta t) constraint, (Margulis,

see Col. 6 lines 14-24 e.g., the switch applies random multiplier between 0 and 1

to the initial gap, subsequently the switch loads the actual gap time to the gap

timer, thus initial local gap interval ( $\Delta t0$ ) is determined independently be each

switch)

immediately following processing of the global constraint information received, (see Col.

5 lines 47-60 e.g., "NP immediately broadcasts a gap control message" (e.g.,

receipt of a global gap condition) "to all switches on the network". "After a

network switch receives a call gap message for a TN from the NP, it loads the call

gap specified in the message and performs the randomization")

**15-25**)

and wherein the time for the global constraint information processing to be completed following the network access controller generating said global constraint information varies for each of said plurality of network access points, (Margulis, see Col. 6 lines

Regarding Claim 83, the combination of Smith in view of Margulis disclose a method as claimed in claim 73, wherein in said step of communicating said at least one global traffic constraint to one or more of said plurality of network access points (**Smith**, see **Col. 5 lines 33-36**) at least one global traffic constraint is multicast to one or more of said plurality of network access points, (**Margulis**, see **Col. 5 lines 47-50 e.g.**, **broadcast gap control message**).

Regarding Claim 84, the combination of Smith in view of Margulis disclose a method as claimed in claim 73, wherein the initial gap interval ( $\Delta t0$ ) (Margulis, see Col. 5 lines 47-55) is determined at each network access point using a random or pseudo-random technique, (Margulis, see Col. 6 lines 15-25)

Regarding Claim 85, the combination of Smith in view of Margulis disclose a method as claimed in claim 79, wherein said communications network is a VoIP network, and said traffic comprises call-related traffic, (**Smith**, see **Col. 4 lines 7-40**)

Regarding Claim 86, the combination of Smith in view of Margulis discloses a method as claimed in claim 79, wherein said network access controller is a Media Gateway Controller (Smith, see Fig. 2, 200 Media gateway for VIP 202a-c) and each of said plurality of network access points comprises a Media Gateway, (Smith, see Col. 4 lines 15-24 i.e., media gateways of Fig. 2, 206a, 206b contain new transactions for processing between users 208 and VIP 202).

Regarding Claim 87, the combination of Smith in view of Margulis discloses a method as claimed in claim 73, wherein a global traffic rate constraint is determined by said network access controller for an address, (Margulis, see Col. 3 lines 45-64 e.g., each TN contains an address).

Regarding Claim 88, the combination of Smith in view of Margulis discloses a method as claimed in claim 73, wherein the number of lines along which a network access point receives traffic for transmission across the communications network and a scalable gap interval determined by the network access controller based on the aggregate traffic offered to the network access controller by all contributing network access points are used to determine said local gap interval ( $\Delta t$ ), (Smith, see Col. 13 lines 6-36 e.g., the admission factor or the adapted gap interval can be calculated by the source (e.g., access point) or the server (e.g., controller). Furthermore the source (access

point) calculates its new gap interval (e.g., per-line gap interval) based on its

input transaction rate λ (e.g., estimate of current rate per line). See Col. 4 lines 61-

67 e.g., aggregate offered traffic is determined by controller 500 for determining

the reduction rate)

Regarding Claim 89, the combination of Smith in view of Margulis discloses a method

as claimed in claim 73, wherein a dial-plan is implemented by a network access point to

make it unnecessary to send an off-hook condition message to the network access

controller when a local gap interval ( $\Delta t$ ) constraint is being imposed, (**Smith, see Col. 4** 

lines 25-40)

Regarding Claim 90, the combination of Smith in view of Margulis discloses a method

as claimed in claim 73, wherein each network access point determines the initial gap

interval (\( \Delta t \)) using a probabilistic method, (Marqulis, see Col. 6 lines 15-25).

Regarding Claim 91, the combination of Smith in view of Margulis discloses a method

as claimed in claim 73, wherein the initial gap interval ( $\Delta t0$ ), if not zero, is determined by

each network access point (Margulis, see Col. 6 lines 15-22 e.g., random multiplier

of 0 to 1), such that all of the network access points initial gap intervals ( $\Delta t0$ ), are

uniformly distributed in the range from zero to the local gap interval (\Delta t0),) determined

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by each network access point, (Margulis, see Col. 6 lines 15-25 e.g., each switch will

perform the randomization process respectively).

Regarding Claim 92, Smith discloses an adaptive overload control system for controlling

the amount of traffic offered by a plurality of network access points (see Fig. 2, 206a-

206b) to a network access controller (see Fig. 4) for processing, the plurality of

network access points (see Fig. 2, 206a-206b) being arranged under control of said

network access controller (see Fig. 4) to provide said traffic with access to a

communication network, the method enabling said network access controller(see Fig.

4) to externally control the amount of traffic which it processes by regulating the rate of

offered traffic, the system comprising:

a) at the network access controller (see Fig. 4, CPU 406):

(i) means for determines if an overload condition exists (see Fig. 4, 410 & Col. 5 lines

**4-10**) and if so,

(ii) means responsive to the determination that an overload condition exists for

generating at least one global traffic constraint (see Col. 5 lines 29-36) to restrict the

rate at which a network access point admits said traffic to the communications network

(see Col. 13 lines 6-36 e.g., the admission factor or the adapted gap interval can

be calculated by the source (e.g., access point) or the server (e.g., controller).

Furthermore the source (access point) calculates its new gap interval (e.g., per-

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line gap interval) based on its input transaction rate  $\lambda$  (e.g., estimate of current

rate per line). See Col. 4 lines 61-67 e.g., aggregate offered traffic is determined

by controller 500 for determining the reduction rate)

(iii) means for communicating said at least one global traffic constraint to one or more of

said plurality of network access points, (see Col. 5 lines 4-36)

(Referring to Col. 5 lines 4-29, Smith discloses the controller located in a network

server establishes a target incoming workload by computing the offered load of sources

(e.g., aggregate offered traffic rate from plurality of access points) from

measurements of arriving messages.

(b) and at each respective network access point (i) means for receiving said at least one

global traffic constraint (see Col. 5 lines 33-36),

(ii) means for processing the received global traffic constraint (see Col. 5 lines 35-36,

i.e., update (processing)) to determine a plurality of local gap interval constraint

conditions for the respective network access point by: determining a local call gap

interval ( $\Delta t$ ) to be imposed on traffic received by said respective network access point

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(see Col. 5 lines 4-37 e.g., reduce transaction rate based on traffic rate & Col. 13

lines 5-15 e.g., generate a local call gap interval (∆t), Col. 2 lines 3-15)

Smith does not expressly disclose the plurality of local gap interval constraint conditions

to include determining an initial local gap interval ( $\Delta t0$ ) which differs from the determined

local gap interval ( $\Delta t$ ), wherein each initial local gap interval ( $\Delta t$ 0) is determined

independently by each respective one of said plurality of network access points to be

between zero and the local gap interval ( $\Delta t$ ), for said respective network access point.

Means for imposing said local initial gap interval (Δt0) at said respective network access

points directly responsive to receipt of a global gap condition and before further traffic is

received at the respective network access point for admittance to said communications

network. However the limitations would be rendered obvious in view of the teachings of

Margulis et al. USP (6,243,449).

Referring to Fig. 1, Margulis illustrates a switch 16 is able to apply an initial gap interval

which varies in a random manner (see Fig. 2B, step 130) between the plurality of

switches 16 offering traffic to a network processor 26, (see Col. 5 line 47 – Col. 6 lines

**1-24**)

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interval ( $\Delta t$ ), (see Col. 6 lines 15-24 e.g., randomizing the first gap time as initial

gap time (e.g.,  $\Delta t0$ ), & Col. 5 lines 50-65 e.g., subsequent gap time (e.g.,  $\Delta t$ ))

wherein each initial local gap interval ( $\Delta t0$ ) is determined independently by each

respective one of said plurality of network access points to be between zero and the

local gap interval ( $\Delta t$ ), for said respective network access point, (see Col. 6 lines 14-24

e.g., the switch applies random multiplier between 0 and 1 to the initial gap,

subsequently the switch loads the actual gap time to the gap timer, thus initial

local gap interval (∆t0) is determined independently be each switch)

Impose said local initial gap interval (\Delta t0) at each of said plurality of network access

points directly responsive to receipt of a global gap condition (see Col. 5 lines 47-60

e.g., "NP immediately broadcasts a gap control message" (e.g., receipt of a global

gap condition) "to all switches on the network". "After a network switch receives

a call gap message for a TN from the NP, it loads the call gap specified in the

message").

and before further traffic is received at the respective network access point for

admittance to said communications network, (see Col. 5 lines 55-60, "after a network

switch receives a call gap message for a TN from the NP, it loads the call gap

specified in the message into a call gap timer created for the TN and blocks <u>all calls</u> it receives" (e.g., ( $\Delta$ t0) is loaded into timer before further traffic is received) "which are destined to this TN" e.g., Thus, responsive to the gap control message from the NP, the standard initial call gap specified in the global constraint control message is automatically <u>loaded</u> into a call gap timer for the TN, and any further

traffic destined for the respective TN is controlled during  $\Delta t0$ ).

(Referring to (Col. 6 lines 17-24), Margulis teaches by randomizing the first gap time in respect of a TN (terminating number) which is subject of gapping, network-wide call bursts at the end of each gap time are avoided (*i.e., avoid synchronized access attempts at the end of gapping period*). Furthermore the initial gap time is standard which is applied prior to receiving traffic for throttling the number of calls to the TN in order to avoid network congestion, see Col. 5 lines 47-55)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention for the global constraint condition sent to the network access points by the controller of Smith to be implemented as the broadcast gap control message of Margulis who discloses determining an initial local gap interval ( $\Delta t0$ ) which differs from the determined local gap interval ( $\Delta t$ ), wherein each initial local gap interval ( $\Delta t0$ ) is determined independently by each respective one of said plurality of network access points to be between zero and the local gap interval ( $\Delta t$ ), for said respective network

access point and Impose said local initial gap interval ( $\Delta t0$ ) at each of said plurality of network access points directly responsive to receipt of a global gap condition and before further traffic is received at the respective network access point for admittance to said communications network, because the teaching lies in Margulis that network-wide call bursts can be avoided at the end of each gap time by randomizing the initial gap interval.

## Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADNAN BAIG whose telephone number is (571)270-

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7511. The examiner can normally be reached on Mon-Fri 7:30m-5:00pm eastern Every

other Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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/ADNAN BAIG/

Examiner, Art Unit 2461

/Huy D Vu/ Supervisory Patent Examiner, Art Unit 2461